



## IREM Institute of Real Estate Management

August 18, 2003

RE: CG Docket No. 02-278

Ms. Marlene S. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Dear Ms. Dortch:

The Institute of Real Estate Management (IREM), America's foremost association of property management professionals, hereby supports the National Association of REALTORS® (NAR) Request for Emergency Stay of Facsimile Advertisement Rules and the American Society of Association Executives' (ASAE) Petition for Stay and Petition for Emergency Clarification in the above referenced docket. The Commission's unexpected decision to remove the "Established Business Relationship" exception from the unsolicited facsimile advertisements rules will severely limit IREM's ability to communicate with its membership and to make them aware of newly available research and publications, upcoming seminars and conferences, and membership renewal deadlines.

In its Petition for Emergency Clarification, ASAE persuasively argues that the statutory definition of "unsolicited advertisement" should not be applied to the communications between a not-for-profit organization, such as IREM, and its membership. We support and endorse ASAE's position that the Telephone Consumer Protection Act of 1991 (TCPA), by specifying that an unsolicited advertisement is "any material advertising the *commercial* availability or quality of any property, goods, or services," (emphasis added) implicitly excludes non-profit organizations from the scope of the unsolicited facsimile advertisement provisions as long as they are acting in furtherance of their tax-exempt, non-profit purposes. We share ASAE's belief that communications to our members, such as notices about conferences and publications should not be affected by the purview of the new rule.

In addition to our concerns about the application of the TCPA prohibition of unsolicited facsimile advertisements to non-profit organizations, IREM also has serious concerns about the timeframe for implementation of the new rules. It will be extremely difficult for IREM to obtain the requisite written consent from all 16,200 of our members before the August 25, 2003 effective date of the new rule.

IREM urges the Commission to stay the effective date of the unanticipated and unprecedented fax rules for one year so that the required written consent form can be incorporated into IREM's annual dues billing cycle. This is the most effective method for our organization, and thousands like us, to obtain the express written consent required by the new rules. The stay is also essential in order for



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our members to institute the required compliance procedures for fax communications with their clients and other businesses to ensure minimal disruptions in real estate transactions.

Beyond the sizeable burden these new regulations will place on the Institute itself, IREM is concerned about the impact it will have upon our nearly 16,200 members. Communicating via facsimile is instrumental to ensuring that vacant property is quickly and efficiently filled, minimizing lost rent and lost revenue. Our members regularly use faxes to distribute lists of available rental space to prospective tenants. The Commission's definition of "unsolicited advertisement," without further clarification, could arguably apply to these communications that are so important to the business that our members conduct every day. We urge the Commission to reconsider and clarify this definition to protect those, like property managers, who use facsimile advertisements in a responsible manner. The effective date of August 25, 2003 is unreasonable and could delay the leasing of available space, exacerbating the effects of an already slow rental market. It will take time for our members to adapt to the new requirements regarding unsolicited facsimile advertisements as businesses will have to amend current practices to obtain this new consent.

We therefore respectfully urge the FCC to grant the petitions of NAR and ASAE for emergency stay and for clarification of the new rules. Thank you for your attention and consideration to this matter.

Respectfully submitted,

Patricia A. Nooney, CPM®  
2003 National President  
Institute of Real Estate Management



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